



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SEP 4 2015

The Honorable David Small
Secretary
Delaware Department of Natural Resources and Environmental Control
89 Kings Highway
Dover, Delaware 19901

Dear Secretary Small:

The U.S. Environmental Protection Agency (EPA) Region III has completed Round 3 of the State Review Framework for the Delaware Department of Natural Resources and Environmental Control (DNREC). The review evaluated enforcement data and files from Fiscal Year 2013 to assess DNREC's implementation of the enforcement programs for the Clean Water Act's National Pollutant Discharge Elimination System program (NPDES), the Clean Air Act's Stationary Source program (CAA), and the Resource Conservation and Recovery Act's Subtitle C program (RCRA). I thank DNREC for its cooperation during the review process.

The review determined that DNREC's implementation of the RCRA enforcement program met expectations. We determined that DNREC's NPDES program provided an appropriate inspection presence for traditional NPDES sources. The report includes two CAA program and four NPDES program issues that need to be addressed which are outlined below.

NPDES Program Issues:

1. DNREC's NPDES industrial-stormwater program, construction-stormwater program, and the delegated agencies (City of Newark and Kent Conservation District) do not enter or upload minimum data requirements into the Integrated Compliance Information System (ICIS) for NPDES non-major permits.
2. DNREC has a permit issuance backlog of Concentrated Animal Feeding Operations (CAFO) and traditional NPDES permits.
3. DNREC conducted repeat inspections of facilities previously identified as having permit violations, including those determined to be in Significant Noncompliance, but did not follow-up with appropriate enforcement response actions.



4. During the SRF review year (FY2013), DNREC's NPDES programs and the delegated agencies did not address any NPDES noncompliance through formal enforcement responses. The SRF review also determined that DNREC's NPDES program did not consistently escalate enforcement since entering into a Management Agreement with EPA in June 2006.

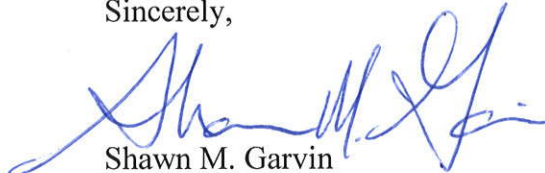
CAA Program Issues:

1. Only 29% (2 of 7) of High Priority Violators were addressed in a timely manner.
2. Only 56% (34 of 61) of the Full Compliance Evaluations were entered into the data management system within 60 days.

The report also includes the responses we received from DNREC and recommendations from EPA to address each of the identified issues. EPA intends to maintain enhanced oversight of Delaware's NPDES program to address performance issues relative to both timely permitting and appropriate enforcement response. EPA will consider taking appropriate enforcement when warranted for violations identified by any of DNREC's enforcement programs that have not been resolved in an appropriate manner.

We will continue to work closely with DNREC to assist in resolving these issues. If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Matthew Colip, EPA's Delaware Liaison, at 215-814-5439.

Sincerely,



Shawn M. Garvin
Regional Administrator

Enclosure

